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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT ROWE JACK,

Defendant and Appellant.

D042911

(Super. Ct. No. SCD174510)

APPEAL from a judgment of the Superior Court of San Diego County, John L. Davidson, Judge. Affirmed.

Robert Rowe Jack entered a negotiated guilty plea to penetration with a foreign object and oral copulation of a person under the age of 14 years. (Pen. Code, §§ 289, subd. (j), 288a, subd. (c)(1).) The court sentenced him to prison for 10 years: the eight-year upper term for penetration with a foreign object with a consecutive two years for oral copulation with a person under the age of 14 years (one-third the middle term).

DISCUSSION

Appointed appellate counsel has filed a brief setting forth the evidence in the superior court. Counsel presents no argument for reversal but asks this court to review the record for error as mandated by *People v. Wende* (1979) 25 Cal.3d 436. Pursuant to *Anders v. California* (1967) 386 U.S. 738, counsel refers to as possible but not arguable issues: (1) whether Jack can challenge the sentence; (2) if Jack can challenge the sentence, did the trial court err in denying probation, imposing the upper term, and imposing consecutive terms.¹

We granted Jack permission to file a brief on his own behalf. He has not responded. A review of the entire record pursuant to *People v. Wende, supra*, 25 Cal.3d 436, including the possible issues referred to pursuant to *Anders v. California, supra*, 386 U.S. 738, has disclosed no reasonably arguable appellate issue. Competent counsel has represented Jack on this appeal.

¹ Because Jack entered a guilty plea, he cannot challenge the facts underlying the conviction. (Pen. Code, § 1237.5; *People v. Martin* (1973) 9 Cal.3d 687, 693.) We need not recite the facts.

DISPOSITION

The judgment is affirmed.

BENKE, Acting P. J.

WE CONCUR:

NARES, J.

O'ROURKE, J.